

**AGREEMENT
BETWEEN
THE GOVERNMENT
OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF BELIZE
CONCERNING COOPERATION TO SUPPRESS THE
PROLIFERATION OF WEAPONS OF MASS DESTRUCTION,
THEIR DELIVERY SYSTEMS, AND RELATED MATERIALS
BY SEA**

The Government of the United States of America and the Government of Belize (hereinafter, "the Parties"),

Deeply concerned about the proliferation of weapons of mass destruction (WMD), their delivery systems, and related materials, particularly by sea, as well as the risk that these may fall into the hands of terrorists;

Recalling the 31 January 1992 United Nations Security Council Presidential statement that proliferation of all WMD constitutes a threat to international peace and security, and underlines the need for Member States of the UN to prevent proliferation;

Also recalling United Nations Security Council Resolution 1540 (2004), which calls on all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Recalling further the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris 13 January 1993; the Treaty on Nonproliferation of Nuclear Weapons, done at Washington, London and Moscow 1 July 1968; and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, done at Washington, London and Moscow 10 April 1972;

Further recalling the International Ship and Port Facility Security Code, adopted by the International Maritime Organization on 12 December 2002;

Acknowledging the widespread consensus that proliferation and terrorism seriously threaten international peace and security;

Convinced that trafficking in items of proliferation concern by States and non-state actors of proliferation concern must be stopped;

Supporting the Statement of Interdiction Principles for the Proliferation Security Initiative;

Inspired by the efforts of the International Maritime Organization to improve the effectiveness of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome 10 March 1988;

Reaffirming the importance of customary international law of the sea as reflected in the 1982 United Nations Convention on the Law of the Sea; and

Committed to cooperation to stop the flow by sea of WMD, their delivery systems, and related materials to or from States or non-state actors of proliferation concern;

Have agreed as follows:

ARTICLE 1

Definitions

In this Agreement, unless the context otherwise requires:

1. "Proliferation by sea" means the illicit transportation by ship of weapons of mass destruction, their delivery systems, and related materials.
2. "Weapons of mass destruction" (WMD) means nuclear, chemical, biological and radiological weapons.
3. "Related materials" means materials, equipment and technology, of whatever nature or type, that are related to and destined for use in the development, production, utilization or delivery of WMD.
4. "Items of proliferation concern" means WMD, their delivery systems, and related materials.
5. "Security Force Officials" means:
 - (a) for the United States, uniformed or otherwise clearly identifiable members of the United States Coast Guard and the United States Navy, who may be accompanied by clearly identifiable law enforcement officials of the Departments of Homeland Security and Justice, and other clearly identifiable officials duly authorized by the Government of the United States of America and notified to the Competent Authority of the Government of Belize; and
 - (b) for Belize, uniformed or otherwise clearly identifiable members of the National Coast Guard Service, the Belize Defence Force, or the Belize Police Department, who may be accompanied by clearly identifiable public officers or by officers of a third State, duly authorized by the Government of Belize and notified to the Competent Authority of the United States.
6. "Security Force ships" means warships and other ships of the Parties, or of third States as may be identified by one Party and notified to the other Party, on which Security Force Officials of either or both Parties may be embarked,

clearly marked and identifiable as being on government service and authorized to that effect, including any ship and aircraft embarked on or supporting such ships.

7. "Suspect ship" means a ship used for commercial or private purposes in respect of which there are reasonable grounds to suspect it is engaged in proliferation by sea.

8. "International waters" means all parts of the sea not included in the territorial sea, internal waters and archipelagic waters of a State, consistent with the respective Constitutions of each Party and the United Nations Convention on the Law of the Sea.

9. "Competent Authority" means for the United States, the Commandant of the United States Coast Guard (including any officer designated by the Commandant to perform such functions), and for Belize, the Commandant Belize National Coast Guard Service (including any officer designated by the Minister responsible for the Belize National Coast Guard Service to perform such functions).

Article 2

Object and Purpose of Agreement

1. The object and purpose of this Agreement is to promote cooperation between the Parties to enable them to prevent the transportation by sea of items of proliferation concern.
2. The Parties shall carry out their obligations and responsibilities under this Agreement in a manner consistent with the principles of international law pertaining to the sovereign equality and territorial integrity of States, and in accordance with their Constitutions and applicable national laws.
3. The Parties shall cooperate with each other under this Agreement to the fullest extent possible consistent with the principles of international law, but subject to the availability of resources and in compliance with their Constitutions and applicable national laws.

Article 3

Cases of Suspect Ships

Operations to suppress proliferation by sea pursuant to this Agreement shall be carried out only against suspect ships having or otherwise claiming the nationality of one of the Parties, suspect ships without nationality, and suspect ships assimilated to ships without nationality, but not against a ship registered under the law of one of the Parties while bareboat chartered in another State not party to this Agreement.

Article 4

Operations in International Waters

1. Authority to Board Suspect Ships. Whenever the Security Force Officials of one Party ("the requesting Party") suspect that a ship located in international waters is a suspect ship which claims nationality in the other Party ("the requested Party"), the requesting Party may request through the Competent Authority of the requested Party, in accordance with paragraph 2 of this Article, that it:

- (a) confirm the claim of nationality of the suspect ship; and
- (b) if such claim is confirmed:
 - (i) authorize the boarding and search of the suspect ship, cargo and the persons found on board by Security Force Officials of the requesting Party; and
 - (ii) if items of proliferation concern are found, authorize the Security Force Officials of the requesting Party to exercise control over the movement of the ship, as well as items and persons on board, pending instructions conveyed through the Competent Authority of the requested Party as to the actions the requesting Party is permitted to take concerning such items, persons and ships.

2. Contents of Requests. Each request should contain the name of the suspect ship, the basis for the suspicion, the geographic position of the ship, the IMO number if available, the homeport, the port of origin and destination, and any other identifying information.

If a request is conveyed orally, the requesting Party shall confirm the request in writing by facsimile or e-mail as soon as possible within two hours. The requested Party shall acknowledge to the Competent Authority of the requesting Party in writing by facsimile or e-mail, or orally and confirmed in writing, its receipt of any written or oral request as soon as possible within two hours upon receiving it.

3. Responding to Requests.

- (a) If the nationality is not verified, the requested State may refute the claim of the suspect ship to its nationality.
- (b) If the nationality is verified, the requested Party may, if satisfied that it is a suspect ship:
 - (i) decide to conduct the boarding and search with its own Security Force Officials;
 - (ii) authorize the boarding and search by the Security Force Officials of the requesting Party;

- (iii) decide to conduct the boarding and search together with the requesting Party; or
- (iv) deny permission to board and search.
- (c) The requested Party shall answer through its Competent Authority, orally and confirmed in writing by e-mail or facsimile, requests made for the verification of nationality and authority to board within two hours of its acknowledgment of the receipt of such requests.
- (d) In any case, the requesting Party may request additional information or request additional time in which to respond.
- (e)
 - (i) If there is no response from the Competent Authority of the Requested Party within 2 hours of its acknowledgement of the request, the Requesting Party shall contact the Requested Party to verify the reasons for the Requested Party's non-reply.
 - (ii) If no contact can be established with the Competent Authority of the Requested Party, the Competent Authority of the Requesting Party may nevertheless proceed to board the suspect vessel for the purpose of inspecting the vessel's documents in order to verify the said vessel's nationality.
 - (iii) If the Competent Authority of the Requesting Party is satisfied that the ship has the nationality of the Requested Party, the Requesting Party will be deemed to have been authorized by the Requested Party to question persons on board and to search the vessel to determine if it is so engaged in proliferation by sea.

4. Notwithstanding the foregoing paragraphs of this Article, the Security Force Officials of one Party ("the first Party") are authorized to board suspect ships claiming nationality in the other Party that are not flying the flag of the other Party, not displaying any marks of its registration or nationality, and claiming to have no documentation on board the ship, for the purpose of locating and examining the ship's documentation. Provided that:

- (a) If documentation or other physical evidence of nationality is located, the foregoing paragraphs of this Article apply.
- (b) If no documentation or other physical evidence of nationality is available, the requesting Party may assimilate the ship to a ship without nationality in accordance with international law.

5. Use of Force. The authorization to board, search and detain includes the authority to use force in accordance with Article 9 of this Agreement.

6. Shipboarding Otherwise in Accordance with International Law. This Agreement does not limit the right of either Party to conduct boardings of ships

or other activities in accordance with international law whether based, *inter alia*, on the right of visit, the rendering of assistance to persons, ships and property in distress or peril, or an authorization from the Flag or Coastal State, or other appropriate bases in international law.

Article 5

Exercise of Jurisdiction over Detained Ships, as well as Items and Persons on Board

1. Jurisdiction of the Parties. In all cases covered by Article 4 concerning the ships of a Party located in international waters, that Party shall have the right to exercise jurisdiction over a detained ship, cargo or other items and persons on board (including seizure, forfeiture, arrest, and prosecution).
2. Jurisdiction in the contiguous zone of a Party. In all cases not covered by Article 4 involving the ship of a Party that arise in the contiguous zone of a Party and in which both Parties have authority to board and to exercise jurisdiction to prosecute--
 - (a) except as provided in paragraph (b), the flag State Party shall have the right to exercise jurisdiction.
 - (b) in cases involving suspect ships fleeing from the territorial sea of a Party in which that Party has the authority to board and to exercise jurisdiction, that Party shall have the right to exercise jurisdiction.
3. Disposition Instructions. Consultations as to the disposition of the vessel, cargo and persons on board shall be undertaken without delay between the Competent Authorities.

Article 6

Exchange of Information and Notification of Results of Actions of the Security Forces

1. Exchange of Operational Information. The Security Forces of both Parties shall endeavor to exchange operational information on the detection and location of suspect ships and shall maintain and protect from unauthorized disclosure communications with each other as necessary to carry out the purpose of this Agreement.
2. Notification of Results. A Party conducting a boarding and search pursuant to this Agreement shall promptly notify the other Party of the results thereof through their Competent Authorities, and in compliance with its laws, make full disclosure and submit a comprehensive report in respect of the boarding, search and results of the investigation.
3. Status Reports. The relevant Party, in compliance with its laws, shall timely report within 30 days to the other Party, through their Competent Authorities, on the status of all investigations, prosecutions and judicial proceedings and other actions and processes, arising out of the application of this Agreement. If any investigation, prosecution, judicial proceedings or other

actions and processes is not complete within 30 days, the relevant Party shall provide periodic reports to the other Party within 180 days.

Article 7

Conduct of Security Force Officials

1. Compliance with Law and Practices. Each Party shall ensure that its Security Force Officials, when conducting boardings and searches pursuant to this Agreement, act in accordance with its applicable national laws and policies and consistent with international law and accepted international practices.
2. Boarding and Search Teams.
 - (a) Boardings and searches pursuant to this Agreement shall be carried out by Security Force Officials from Security Force ships and ships and aircraft embarked on or otherwise supporting such Security Force ships.
 - (b) The boarding and search teams may carry arms.

Article 8

Safeguards

1. Where a Party boards, searches, detains, seizes, arrests, forfeits, or takes other measures against a suspect ship, or persons on board, or an item of proliferation concern on a suspect ship, in accordance with this Agreement, that Party shall:
 - (a) take due account of the need not to endanger the safety of life at sea;
 - (b) take due account of the security of the ship and its cargo;
 - (c) not prejudice the commercial or legal interests of the Flag State;
 - (d) ensure within available means, that any measure taken with regard to the suspect ship is environmentally sound under the circumstances;
 - (e) ensure that persons on board are afforded the protections, rights and guarantees provided by international law and the boarding State's law and regulations;
 - (f) ensure the master of the suspect ship is, or has been, afforded the opportunity to contact the ship's owner, manager or Flag State at the earliest opportunity.
2. Reasonable efforts shall be taken to avoid a suspect ship from being unduly detained or delayed.

Article 9
Use of Force

1. All uses of force pursuant to this Agreement shall be in strict accordance with this Agreement, the applicable laws and policies of the Parties and applicable international law.
2. Each Party shall avoid the use of force except when and to the degree necessary to ensure the safety of Security Force Officials and ships, and of persons on board the suspect ship, and where Security Force Officials are obstructed in the execution of their duties.
3. Only that force reasonably necessary under the circumstances may be used.
4. Boarding and search teams and Security Force ships have the inherent right to use all available means to apply that force reasonably necessary to defend themselves or others from physical harm.

Article 10
Exchange and Knowledge of Laws and Policies of Other Party

1. Exchange of Information. To facilitate implementation of this Agreement, each Party shall endeavor to ensure the other Party is appropriately informed of its respective applicable laws and policies, particularly those pertaining to the use of force.
2. Knowledge. Each Party shall endeavor to ensure that its Security Force Officials are knowledgeable concerning the applicable laws and policies in accordance with this Agreement.

Article 11
Points of Contact

1. Information. Each Party shall inform the other Party, and keep current, the points of contact for communication, decision and instructions under Articles 4 and 5, and notifications under Articles 6 and 10 of this Agreement. Such information shall be updated by and exchanged between the Competent Authorities.
2. Availability. Each Party shall ensure that its points of contact have the capability to receive, process and respond to requests and reports at any time.

Article 12
Disposition of Seized Property

1. Except as otherwise agreed by the Parties, cargo and other items seized in consequence of operations undertaken onboard ships subject to the jurisdiction of a Party pursuant to this Agreement, shall be disposed of by that Party in accordance with its laws.

2. The Party exercising jurisdiction may, in any case, transfer forfeited cargo, assets and other items or proceeds of their sale to the other Party. Each transfer generally will reflect the contribution of the other Party to facilitating or effecting the forfeiture of such cargo, assets or proceeds.
3. A Party may transfer an item of proliferation concern to the other Party for safeguarding from onward proliferation and destruction.

Article 13

Claims

1. Injury or Loss of Life. Any claim for injury to or loss of life of a Security Force Official of a Party while carrying out operations arising from this Agreement shall be resolved by that Party in accordance with the laws of that Party.
2. Other Claims. Any other claim submitted for damage, harm, injury, death or loss resulting from an operation carried out by a Party under this Agreement shall be resolved by that Party in accordance with the domestic law of that Party, and in a manner consistent with international law.

Article 14

Disputes and Consultations

1. Disputes. Disputes arising from the interpretation or implementation of this Agreement shall be settled by mutual agreement of the Parties.
2. Evaluation of Implementation. The Parties agree to consult as necessary to evaluate the implementation of this Agreement and to consider enhancing its effectiveness. The evaluation shall be carried out at least once a year.
3. Resolving Difficulties. In case a difficulty arises concerning the operation of this Agreement, either Party may request consultations with the other Party to resolve the matter.

Article 15

Effect on Rights, Privileges and Legal Positions

Nothing in this Agreement:

- (a) alters the rights and privileges due any person in any administrative or judicial proceeding conducted under the jurisdiction of either Party.
- (b) shall prejudice the position of either Party with regard to international law.

Article 16
Cooperation and Assistance

1. The Competent Authority of one Party may request, and the Competent Authority of the other Party may authorize, Security Force Officials to provide technical assistance, such as specialized assistance in the conduct of search of suspect ships or other facilities, for the search of suspect ships or other facilities located in the territory or waters of the requesting Party. Each Party shall bear its own costs.
2. Nothing in this Agreement precludes a Party from authorizing the other Party to suppress proliferation in its territory, waters or airspace, or to take action involving suspect ships or aircraft claiming its nationality, or from providing other forms of assistance and cooperation to suppress proliferation.

Article 17
Entry into Force and Duration

1. Entry into Force. This Agreement shall enter into force upon an exchange of notes indicating that the necessary internal procedures of each Party have been completed.
2. Termination. This Agreement may be terminated by either Party upon written notification of such termination to the other Party through the diplomatic channel, termination to be effective one year from the date of such notification.
3. Continuation of Actions Taken. This Agreement shall continue to apply after termination with respect to any administrative or judicial proceedings regarding actions that occurred during the time the Agreement was in force.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Washington, this fourth day of August, 2005, in duplicate.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF
BELIZE:

